

Underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 1286

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

RICK MIERA

AN ACT

RELATING TO MOTOR VEHICLES; ESTABLISHING GRADUATED DRIVER'S
LICENSES FOR PERSONS UNDER EIGHTEEN; AMENDING SECTIONS OF THE
NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-5-5 NMSA 1978 (being Laws 1978,
Chapter 35, Section 227, as amended) is amended to read:

"66-5-5. PERSONS NOT TO BE LICENSED. --The division shall
not issue a driver's license under the Motor Vehicle Code to any
person:

A. who is under the age of [~~sixteen~~] eighteen years,
except the division may, in its discretion, issue:

(1) [~~a restricted~~] an instruction permit [~~or a~~
~~restricted license~~] to [~~students fourteen~~] a person fifteen
years and nine months of age or over, who is enrolled in and

1 attending or has completed a driver-education course that
2 includes a DWI education and prevention component and practice
3 driving that is approved by the bureau or offered by a public
4 school;

5 ~~[(2) a license to any person fifteen years of~~
6 ~~age or older who has satisfactorily completed a driver education~~
7 ~~course that is approved by the bureau or offered by a public~~
8 ~~school that includes both a DWI education and prevention~~
9 ~~component and practice driving]~~

10 (2) a provisional license to any person sixteen
11 years of age or older who has completed a driver education
12 course approved by the bureau or offered by a public school that
13 includes a DWI education and prevention component and practice
14 driving unless the division has waived the practice driving
15 requirement;

16 (3) a driver's license to any person seventeen
17 years of age or older who has had a provisional license for the
18 twelve-month period immediately preceding the date of the
19 application for the driver's license has complied with
20 restrictions on that license and has not been convicted of a
21 traffic violation that was committed during this period; and

22 ~~[(3)]~~ (4) to any person thirteen years of age
23 or older who passes an examination prescribed by the division, a
24 license restricted to the operation of a motorcycle, provided:

25 (a) the motor is not in excess of one

Underscored material = new
[bracketed material] = delete

1 hundred cubic centimeters displacement;

2 (b) no holder of an initial license may
3 carry any other passenger while driving a motorcycle; and

4 (c) the director approves and certifies
5 motorcycles as not in excess of one hundred cubic centimeters
6 displacement and by regulation provides for a method of
7 identification of such motorcycles by all law enforcement
8 officers;

9 B. whose license or driving privilege has been
10 suspended or denied, during the period of suspension or denial,
11 or to any person whose license has been revoked, except as
12 provided in Section 66-5-32 NMSA 1978;

13 C. who is an habitual drunkard, an habitual user of
14 narcotic drugs or an habitual user of any drug to a degree which
15 renders him incapable of safely driving a motor vehicle;

16 D. who, within any ten-year period, is three times
17 convicted of driving a motor vehicle while under the influence
18 of intoxicating liquor or narcotic drug regardless of whether
19 the convictions are under the laws or ordinances of this state
20 or any municipality or county of this state or under the laws or
21 ordinances of any other state, the District of Columbia or any
22 governmental subdivision thereof. Ten years after being so
23 convicted for the third time, the person may apply to any
24 district court of this state for restoration of the license, and
25 the court, upon good cause being shown, may order restoration of

. 116310. 1

Underscored material = new
[bracketed material] = delete

1 the license applied for; provided that the person has not been
2 subsequently convicted of driving a motor vehicle while under
3 the influence of intoxicating liquor or drug in the ten-year
4 period prior to his request for restoration of his license.
5 Upon issuance of the order of restoration, a certified copy
6 shall immediately be forwarded to the division, and if the
7 person is otherwise qualified for the license applied for, the
8 three previous convictions shall not prohibit issuance of the
9 license applied for. Should the person be subsequently once
10 convicted of driving a motor vehicle while under the influence
11 of intoxicating liquor or drug, the division shall revoke his
12 license for five years, after which time he may apply for
13 restoration of his license as provided in this subsection;

14 E. who has previously been afflicted with or who is
15 suffering from any mental disability or disease which would
16 render him unable to drive a motor vehicle with safety upon the
17 highways and who has not, at the time of application, been
18 restored to health;

19 F. who is required by the Motor Vehicle Code to take
20 an examination, unless he has successfully passed the
21 examination;

22 G. who is required under the laws of this state to
23 deposit proof of financial responsibility and who has not
24 deposited the proof;

25 H. when the director has good cause to believe that

. 116310. 1

Underscored material = new
[bracketed material] = delete

1 the operation of a motor vehicle on the highways by the person
2 would be inimical to public safety or welfare; or

3 I. as a motorcycle driver who is less than eighteen
4 years of age and who has not presented a certificate or other
5 evidence of having successfully completed a motorcycle driver-
6 education program licensed or offered in conformance with
7 regulations of the bureau. "

8 Section 2. Section 66-5-8 NMSA 1978 (being Laws 1978,
9 Chapter 35, Section 230, as amended) is amended to read:

10 "66-5-8. PROVISIONAL LICENSES--INSTRUCTION PERMITS [AND]--
11 DRIVER EDUCATION STUDENTS--TEMPORARY LICENSES. --

12 A. Any person sixteen years of age or older who has
13 completed a driver education course that includes a DWI
14 prevention and education program and practice driving that is
15 approved by the bureau or offered by a public school may apply
16 to the division for a provisional license. The division may
17 waive the requirement for practice driving if the division
18 determines that the applicant's prior driving experience
19 justifies the exemption. The provisional license entitles the
20 licensee, while having the license in his immediate possession,
21 to drive a motor vehicle upon the public highways only between
22 the hours of 6:00 a.m. and midnight, unless accompanied by a
23 licensed driver twenty-one years of age or older. This
24 provisional license shall be in such form as to be readily
25 distinguishable from an unrestricted driver's license, and shall

. 116310. 1

Underscored material = new
[bracketed material] = delete

1 contain an indication that the licensee may drive without
2 supervision only between 6:00 a. m. and midnight.

3 [A.] B. Any person fifteen years and nine months of
4 age or older who is enrolled in and attending or has completed a
5 driver education course that includes a DWI prevention and
6 education program and practice driving that is approved by the
7 bureau or offered by a public school may apply to the division
8 for an instruction permit. The division, in its discretion
9 after the applicant has successfully passed all parts of the
10 examination other than the driving test, may issue to the
11 applicant an instruction permit. This permit entitles the
12 applicant, while having the permit in his immediate possession,
13 to drive a motor vehicle upon the public highways for a period
14 of six months when accompanied by a licensed driver twenty-one
15 years of age or older who has been licensed for at least three
16 years in this state or in another state and who is occupying a
17 seat beside the driver except in the event the permittee is
18 operating a motorcycle. The instruction permit may be renewed or
19 a new permit issued for an additional period of six months.

20 [~~B. The division upon receiving proper application~~
21 ~~may in its discretion issue a restricted instruction permit~~
22 ~~effective for a restricted period of a school year or more to an~~
23 ~~applicant fourteen]~~

24 C. Any person fifteen years of age or
25 older who is a student enrolled in and attending a driver
education course that is approved by the bureau or offered by a

Underscored material = new
[bracketed material] = delete

1 public school and that includes both a DWI education and
2 prevention component and practice driving may drive a motor
3 vehicle on highways of this state even though the [~~applicant~~]
4 student has not reached the legal age to be eligible for a
5 driver's license or an instruction permit; provided that the
6 motor vehicle is equipped with a dual brake control and [~~The~~
7 ~~instruction permit entitles the permittee, when he has the~~
8 ~~permit in his immediate possession, to operate a motor vehicle~~
9 ~~only on a designated highway or within a designated area but~~
10 ~~only when~~] an approved instructor is occupying a seat beside the
11 [~~permittee~~] student.

12 [C.] D. The division in its discretion ~~may~~ issue a
13 temporary driver's permit to an applicant for a driver's license
14 permitting him to operate a motor vehicle while the division is
15 completing its investigation and determination of all facts
16 relative to the applicant's right to receive a driver's license.
17 The permit [~~must~~] shall be in his immediate possession while
18 operating a motor vehicle, and it shall be invalid when the
19 applicant's license has been issued or for good cause has been
20 refused.

21 [D.] E. Any holder of an instruction permit for a
22 motorcycle shall not carry any other passenger while operating a
23 motorcycle. "

24 Section 3. Section 66-5-9 NMSA 1978 (being Laws 1978,
25 Chapter 35, Section 231, as amended) is amended to read:

. 116310. 1

Underscored material = new
[bracketed material] = delete

1 "66-5-9. APPLICATION FOR LICENSE, TEMPORARY LICENSE,
2 PROVISIONAL LICENSE OR INSTRUCTION PERMIT. --

3 A. Every application for an instruction permit,
4 provisional license or [~~for a~~] driver's license shall be made
5 upon a form furnished by the department. Every application
6 shall be accompanied by the proper fee. For permits,
7 provisional licenses or driver's licenses other than those
8 issued pursuant to the New Mexico Commercial Driver's License
9 Act, submission of a complete application with payment of the
10 fee entitles the applicant to not more than three attempts to
11 pass the examination within a period of six months from the date
12 of application.

13 B. Every application shall contain the full name,
14 social security number, date of birth, sex and New Mexico
15 residence address of the applicant and briefly describe the
16 applicant and indicate whether the applicant has previously been
17 licensed as a driver and, if so, when and by what state or
18 country and whether any such license has ever been suspended or
19 revoked or whether an application has ever been refused and, if
20 so, the date of and reason for the suspension, revocation or
21 refusal.

22 C. Every applicant shall indicate whether he has
23 been convicted of driving while under the influence of
24 intoxicating liquor or drugs in this state or in any other
25 jurisdiction. Failure to disclose any such conviction prevents

1 the issuance of a driver's license, temporary license or
2 instruction permit for a period of one year if the failure to
3 disclose is discovered by the department prior to issuance. If
4 the nondisclosure is discovered by the department subsequent to
5 issuance, the department shall revoke the driver's license,
6 temporary license or instruction permit for a period of one
7 year. Intentional and willful failure to disclose, as required
8 in this subsection, is a misdemeanor.

9 D. Every applicant less than eighteen years of age
10 who is making an application to be granted his first New Mexico
11 driver's license shall submit evidence that he has successfully
12 completed a driver education course that included a DWI
13 prevention and education program approved by the bureau or
14 offered by a public school. The bureau may accept verification
15 of driver education course completion from another state if the
16 driver education course substantially meets the requirements of
17 the bureau for a course offered in New Mexico.

18 E. Every applicant eighteen years of age and over,
19 but less than forty-five years of age, who is making an
20 application to be granted his first New Mexico driver's license
21 shall submit evidence with his application that he has
22 successfully completed a bureau-approved DWI prevention and
23 education program.

24 F. Every applicant forty-five years of age and over,
25 who has not been previously licensed in other jurisdictions for

1 a cumulative total of more than ten years or who has been
2 convicted of driving under the influence of intoxicating liquor
3 or drugs, and who is making an application to be granted his
4 first New Mexico driver's license, shall submit evidence with
5 his application that he has successfully completed a
6 bureau-approved DWI prevention and education program.

7 G. Whenever application is received from a person
8 previously licensed in another jurisdiction, the department may
9 request a copy of the driver's record from the other
10 jurisdiction. When received, the driver's record may become a
11 part of the driver's record in this state with the same effect
12 as though entered on the driver's record in this state in the
13 original instance.

14 H. Whenever the department receives a request for a
15 driver's record from another licensing jurisdiction, the record
16 shall be forwarded without charge.

17 I. This section does not apply to driver's licenses
18 issued pursuant to the New Mexico Commercial Driver's License
19 Act. "

20 Section 4. Section 66-5-11 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 233) is amended to read:

22 "66-5-11. APPLICATION OF MINORS. --

23 A. The application of any person under the age of
24 eighteen years for an instruction permit, provisional license or
25 driver's license shall be signed and verified by the father,

Underscored material = new
[bracketed material] = delete

1 mother or guardian or, in the event there is no parent or
2 guardian, [~~then~~] by another responsible adult who is willing to
3 assume the obligation imposed under this article upon a person
4 signing the application of a minor.

5 B. Any negligence or willful misconduct of a minor
6 under the age of eighteen years when driving a motor vehicle
7 upon a highway shall be imputed to the person who has signed the
8 application of [~~such~~] the minor for a permit or license, which
9 person shall be jointly and severally liable with [~~such~~] the
10 minor for any damages caused by [~~such~~] the negligence or willful
11 misconduct except as otherwise provided in Subsection C of this
12 section.

13 C. In the event a minor deposits or there is
14 deposited upon his behalf proof of financial responsibility in
15 respect to the operation of a motor vehicle owned by him or, if
16 not the owner of a motor vehicle, [~~then~~] with respect to the
17 operation of any motor vehicle, in form and in amounts as
18 required under the motor vehicle financial responsibility laws
19 of this state, [~~then~~] the division may accept the application of
20 [~~such~~] the minor when signed by one parent or the guardian of
21 [~~such~~] the minor, and, while such proof is maintained, [~~such~~]
22 the parent or guardian [~~shall~~] is not [~~be~~] subject to the
23 liability imposed under Subsection B of this section."

24 Section 5. Section 66-5-12 NMSA 1978 (being Laws 1978,
25 Chapter 35, Section 234) is amended to read:

. 116310. 1

Underscored material = new
[bracketed material] = delete

1 "66-5-12. RELEASE FROM LIABILITY. --Any person who has
2 signed the application of a minor for a driver's license or
3 provisional license may thereafter file with the division a
4 verified written request that the license of [~~said~~] the minor so
5 granted [~~shall~~] be [~~cancelled~~] canceled. Thereupon, the
6 division shall cancel the license of [~~said~~] the minor, and the
7 person who signed the application of [~~such~~] the minor shall be
8 relieved from the liability imposed under this article, by
9 reason of having signed [~~such~~] the application, on account of
10 any subsequent negligence or willful misconduct of [~~such~~] the
11 minor in operating a motor vehicle. "

12 Section 6. Section 66-5-13 NMSA 1978 (being Laws 1978,
13 Chapter 35, Section 235) is amended to read:

14 "66-5-13. CANCELLATION OF LICENSE UPON DEATH OF PERSON
15 SIGNING MINOR'S APPLICATION. --The division upon receipt of
16 satisfactory evidence of the death of the person who signed the
17 application of a minor for a driver's license or provisional
18 license shall cancel [~~such~~] the license and shall not issue a
19 new license until suchtime as a new application, duly signed
20 and verified, is made as required by this article. This
21 provision [~~shall~~] does not apply in the event the minor has
22 attained the age of eighteen years. "

23 Section 7. Section 66-5-24 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 246) is amended to read:

25 "66-5-24. AUTHORITY OF DIVISION TO CANCEL LICENSE. --

Underscored material = new
[bracketed material] = delete

1 A. The division is authorized to cancel any driver's
2 license or provisional license upon determining that the
3 licensee was not entitled to the issuance [~~thereof~~] of the
4 license or that [~~said~~] the licensee failed to give the required
5 or correct information in his application or committed any fraud
6 in making [~~such~~] the application.

7 B. Upon such cancellation, the licensee must
8 surrender the license so [~~cancelled~~] canceled to the division."

9 Section 8. Section 66-5-29 NMSA 1978 (being Laws 1978,
10 Chapter 35, Section 251, as amended by Laws 1993, Chapter 66,
11 Section 4 and also by Laws 1993, Chapter 78, Section 4) is
12 amended to read:

13 "66-5-29. MANDATORY REVOCATION OF LICENSE BY DIVISION. --

14 A. The division shall immediately revoke the
15 driver's license or provisional license of any driver upon
16 receiving a record of the driver's adjudication as a delinquent
17 for or conviction of any of the following offenses, whether the
18 offense is under any state law or local ordinance, when the
19 conviction or adjudication has become final:

20 (1) manslaughter or negligent homicide
21 resulting from the operation of a motor vehicle;

22 (2) any offense rendering a person a "first
23 offender" as defined in the Motor Vehicle Code, if that person
24 does not attend a driver rehabilitation program pursuant to
25 Subsection [~~H~~] E of Section 66-8-102 NMSA 1978;

Underscored material = new
[bracketed material] = delete

1 (3) any offense rendering a person a
2 "subsequent offender" as defined in the Motor Vehicle Code;

3 (4) any felony in the commission of which a
4 motor vehicle is used;

5 (5) failure to stop and render aid as required
6 under the laws of this state in the event of a motor vehicle
7 accident resulting in the death or personal injury of another;

8 (6) perjury or the making of a false affidavit
9 or statement under oath to the division under the Motor Vehicle
10 Code or under any other law relating to the ownership or
11 operation of motor vehicles; or

12 (7) conviction or forfeiture of bail not
13 vacated upon three charges of reckless driving committed within
14 a period of twelve months.

15 B. Any person whose license has been revoked under
16 this section, except as provided in Subsection C, D or E of this
17 section, shall not be entitled to apply for or receive any new
18 license until the expiration of one year from the date of the
19 last application on which the revoked license was surrendered to
20 and received by the division, if no appeal is filed, or one year
21 from the date that the revocation is final and he has exhausted
22 his rights to an appeal.

23 C. Any person who upon adjudication as a delinquent
24 or conviction is subject to license revocation under this
25 section for an offense pursuant to which he was also subject to

. 116310. 1

Underscored material = new
[bracketed material] = delete

1 license revocation pursuant to Section 66-8-111 NMSA 1978 shall
2 have his license revoked for that offense for a combined period
3 of time equal to one year.

4 D. Upon receipt of an order from a court pursuant to
5 Subsection J of Section 32-1-34 NMSA 1978 or Subsection G of
6 Section 32-1-36 NMSA 1978, the division shall revoke the
7 driver's license or driving privileges for a period of time in
8 accordance with these provisions.

9 E. Upon receipt from a district court of a record of
10 conviction for the offense of shooting at or from a motor
11 vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978 or
12 of a conviction for a conspiracy or an attempt to commit that
13 offense, the division shall revoke the driver's licenses or
14 driving privileges of the convicted person. Any person whose
15 license or privilege has been revoked pursuant to the provisions
16 of this subsection shall not be entitled to apply for or receive
17 any new license or privilege until the expiration of one year
18 from the date of the last application on which the revoked
19 license was surrendered to and received by the division, if no
20 appeal is filed, or one year from the date that the revocation
21 is final and [he] the person has exhausted his rights to an
22 appeal. "

23 Section 9. Section 66-5-30 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 252, as amended) is amended to read:

25 "66-5-30. AUTHORITY OF DIVISION TO SUSPEND OR REVOKE

Underscored material = new
[bracketed material] = delete

1 LICENSE. --

2 A. The division is authorized to suspend the
3 driver's license or provisional license of a driver without
4 preliminary hearing upon a showing by its records or other
5 sufficient evidence that the licensee:

6 (1) has been convicted of an offense for which
7 mandatory revocation of license is required upon conviction;

8 (2) has been convicted as a driver in any
9 accident resulting in the death or personal injury of another or
10 serious property damage;

11 (3) has been convicted with such frequency of
12 offenses against traffic laws or regulations governing motor
13 vehicles as to indicate a disrespect for traffic laws and a
14 disregard for the safety of other persons on the highways;

15 (4) is an habitually reckless or negligent
16 driver of a motor vehicle;

17 (5) is incompetent to drive a motor vehicle;

18 (6) has permitted an unlawful or fraudulent use
19 of the license;

20 (7) has been convicted of an offense in another
21 state which if committed in this state would be grounds for
22 suspension or revocation;

23 (8) has violated provisions stipulated by a
24 district court in limitation of certain driving privileges;

25 (9) has failed to fulfill a signed promise to

Underscored material = new
[bracketed material] = delete

1 appear or notice to appear in court as evidenced by notice from
2 a court, whenever appearance is required by law or by the court
3 as a consequence of any charge or conviction under the Motor
4 Vehicle Code;

5 (10) has failed to pay a penalty assessment
6 within thirty days of the date of issuance; or

7 (11) has accumulated seven points, but less
8 than eleven points, and when the division has received a
9 recommendation from a municipal or magistrate judge that the
10 [~~licensee~~] license be suspended for a period not to exceed three
11 months.

12 B. Upon suspending the license of any person as
13 authorized in this section, the division shall immediately
14 notify the licensee in writing and upon his request shall afford
15 him an opportunity for a hearing as early as practicable within
16 not to exceed twenty days, not counting Saturdays, Sundays and
17 legal holidays, after receipt of the request in the county
18 wherein the licensee resides unless the division and the
19 licensee agree that the hearing may be held in some other
20 county; provided that the hearing request is received within
21 twenty days from the date that the suspension was deposited in
22 the United States mail. The director may, in his discretion,
23 extend the twenty-day period. Upon the hearing, the director or
24 his duly authorized agent may administer oaths and may issue
25 subpoenas for the attendance of witnesses and the production of

. 116310. 1

Underscored material = new
~~[bracketed material] = delete~~

1 relevant books and papers and may require a reexamination of the
2 licensee. Upon the hearing, the division shall either rescind
3 its order of suspension or, good cause appearing therefor, may
4 continue, modify or extend the suspension of the license or
5 revoke the license."

6 - 18 -
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25